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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,844	12/09/2003	Robert W. King	410027-32	5229

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Fulwider Patton Lee & Utecht LLP
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EXAMINER

KING, ANITA M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/730,844

Applicant(s)

KING, ROBERT W.

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

This is the first office action for application number 10/730,844, Simplified Pipe Support Assembly, filed on December 9, 2003.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 3, and 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is an inconsistency between the language in the preamble of claim 1 and certain portions in the body of proceeding claims 2 and 3, thereby making the scope of the claim unclear. The preamble in claim 1 clearly indicates that a subcombination is being claimed, e.g., "a system for mounting plastic pipes". This language would lead

the examiner to believe that the applicant intends to claim only the subcombination of "a system," the plastic pipes being only functionally recited.

The problem arises when the pipes are positively recited. Claims 2 and 3 further limit the pipes and not the claimed invention i.e., the system. The examiner cannot be sure if applicant's intent is to claim merely the system or the system in combination with the plastic pipes.

In formulating a rejection on the merits, the examiner is considering that the claims are drawn to the subcombination and the claims will be rejected accordingly.

Claim 8 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "a pipe," in line 5 of the claim is intended to refer to the original recitation of the term "a plastic pipe," in line 1 of the claim. Applicant is suggested to change the latter recitation to either --the pipe-- or --said pipe--.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,543,731 to Mercier in view of U.S. Patent D392,553 to Dill and in further view of U.S. Patent 5,288,047 to Pan. Mercier discloses a system for mounting

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plastic pipes, comprising: a hollow plastic support pipe (16) having an outer diameter; first and second plastic fittings each including a base portion (19) having openings for receiving screws or nails, and an integral partially open portion (18) for receiving the hollow plastic support pipe; a double plastic clip fitting (21) having a first tubular portion (22) for mounting on the hollow plastic support pipe, and a second integral, partially open, snap-on clip portion (23) for receiving a fluid flow system pipe (11); and the snap-on clip portions (23) being partially open and having outwardly extending jaws, the space between the jaws having an extent slightly less than the outer diameter of the fluid flow system pipe; whereby the support pipe may be cut to a length slightly less than the distance between two studs (13), the base portion (19) of the fittings may be secured in place on the studs, the support pipe positioned in the open portion, and the clip fitting snapped onto the fluid flow system pipe to simply and securely hold the fluid flow system pipe in place; wherein at least one of the pipes is bonded to one of the clips by plastic solvent (Col. 2, line 4ff); wherein the pipes and fittings are formed of PVC (Col. 2., line 5); wherein the open space between the jaws are of a predetermined value; and wherein the axial extent of the jaws is greater than the outer diameter of the fluid pipe.

Mercier discloses the claimed invention except for the limitation of first and second snap fittings. Dill teaches that it is known to have a fitting for positioning on a support surface such as a stud through a base portion including a hole for receiving a nail or screw and wherein the fitting is a plastic snap fitting and further having an integral open snap-on clip portion. It would have been obvious to one having ordinary

skill in the art at the time the invention was made to have modified the fittings in Mercier to have included the fitting as taught by Dill for the purpose of providing an alternative, mechanically equivalent fitting for supporting the hollow plastic support pipe between a pair of studs and for providing a fitting wherein the hollow plastic support pipe is readily and easily removable from between the studs.

Mercier combined with Dill disclose the claimed invention except for the limitation of a double snap-on plastic clip fitting. Pan teaches a double snap-on plastic clip (1) having a first partially open snap-on clip portion (11) and a second integral, partially open, snap-on clip portion (12), and wherein the two snap-on clip portions of the double fitting are of different sizes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the snap-on plastic clip in Mercier combined with Dill to have included a double snap-on plastic clip as taught by Pan for the purpose of providing a fitting that it easily attached and removed from plural supported/supporting objects. It would have been obvious to one having ordinary skill in the art to have the space and the axial extent of the jaws to have been about three-quarters of the diameter of the pipe and greater than one-half the diameter, respectively, for the purpose of providing an aesthetically different support and since such a modification would not have produced any unexpected results.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dill. Dill discloses a support or fitting for receiving a plastic pipe, comprising: a plastic base portion having a hole there through for receiving a nail or a screw; a plastic snap-on clip portion of generally circular configuration for receiving the pipe having a predetermined

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outer diameter; the snap-on portion being partially open and having outwardly extending jaws, the space between the jaws being slightly less than the outer diameter; and the base portion and the snap-in clip portion being integrally molded of plastic.

Dill discloses the claimed invention except for the limitations of a plurality of holes, the space between the jaws being about three-quarters of the diameter of the pipe, and the axial extent of the jaws being greater than one-half of the outer diameter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the support in Dill to have included more than one hole for the purpose of providing a more secured mounting of the support on a surface. It would have been obvious to one having ordinary skill in the art to have modified the space and the axial extent of the jaws to have been about three-quarters of the diameter of the pipe and greater than one-half the diameter, respectively, for the purpose of providing an aesthetically different support and since such a modification would not have produced any unexpected results.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 1,905,596 to Lewis

U.S. Patent 2,523,785 to Sereno

U.S. Patent 3,021,103 to Beyerle

U.S. Patent 3,216,025 to Roll

U.S. Patent 3,385,545 to Patton

U.S. Patent 3,404,858 to Levy

U.S. Patent 3,606,217 to Leiferman

U.S. Patent 3,747,166 to Eross

U.S. Patent 3,884,438 to Logsdon

U.S. Patent 3,944,175 to Kearney

U.S. Patent 5,050,824 to Hubbard


U.S. Patent D417,141 to Senninger

Lewis discloses a stanchion for supporting pipelines. Sereno discloses a resilient clamping device for framework elements. Beyerle discloses a plumbing assembly. Roll discloses a plumbing fixture. Patton discloses a conduit hanging apparatus. Levy discloses a conduit support bracket. Leiferman discloses a bathtub faucet bracket. Eross discloses a hose holder for hose or flexible tubing. Logsdon discloses a plumbing structure that consists of an assembly of self-supporting pipes. Kearney discloses a universal pipe support and hanger for use in roughing in plumbing pipes. Hubbard discloses a metal pipe bracket for firmly securing a plumbing pipe within a stud bay. Senninger discloses a pipe clip.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (703) 308-2162. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anita M. King
Primary Examiner
Art Unit 3632

June 10, 2004